

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CAPITAL MANAGEMENT FUND, LP

Appellant,

v.

GEOFFREY L. BERMAN, TRUSTEE

Appellee.

C. A. No. 17-945-GMS

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FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE

RECOMMENDATION

At Wilmington this 4th day of **August, 2017**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process. The parties advised that the issues on appeal are unlikely to be resolved by mediation.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court.

The parties request that the following briefing schedule be entered:

Appellant's opening brief August 28, 2017

Appellee's answering brief September 27, 2017

Appellant's reply brief October 11, 2017

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
Chief U.S. Magistrate Judge Mary Pat Thyng